



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 33 of the Housing (Scotland)
Act 1988 (Act)**

Chamber Ref: FTS/HPC/EV/22/2610

**Re: Property at 12 Brewlands Avenue, Bo'Ness, Altens, EH51 0NQ (“the
Property”)**

Parties:

**Mrs Val McBeath, Mr Stuart McBeath, 81 Manchester Road, Macclesfield,
Cheshire, SK10 2JP (“the Applicant”)**

**Miss Jaine Kelly, 12 Brewlands Avenue, Bo'Ness, Altens, EH51 0NQ (“the
Respondent”)**

Tribunal Members:

Alan Strain (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application for eviction and recovery of
possession be granted.**

Background

This is an application under section 33 of the Act and Rule 66 of the First-tier
Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017
(**Regulations**) in respect of the termination of a Short-Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents:

1. Application received 27 July 2022;
2. SAT commencing 25 August 2014 and AT5 of same date;
3. Notice to Quit dated 18 January 2022;
4. Section 33 Notice dated 18 January 2022;
5. Royal Mail Certificate of Delivery of Section 33 Notice and Notice to Quit
dated 19 January 2022;

6. Section 11 Notice with proof of service by email on 27 July 2022;
7. Sheriff Officer Certificate of Service of CMD Notification from tribunal to Respondent dated 17 November 2022;
8. Applicant's Written Submissions enclosing Terms of Engagement and Schedule of Works with Solicitors to market and sell the Property dated 12 December 2022.

Case Management Discussion (CMD)

The Applicants did not appear but was represented by their Letting Agent Ms Deans. The Respondent did not appear and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate. She did not. The Tribunal were satisfied that the Respondent had received notification of the CMD and the fact that the Tribunal could proceed in her absence and the Tribunal could make a Decision if it considered it had sufficient information to do so and the procedure was fair.

The Tribunal accordingly proceeded in the Respondent's absence.

Ms Deans confirmed to the Tribunal that the Applicants' intention was to sell the Property. She read a statement that the Applicants had sent to her pointing out that the Property had become a liability due to increasing mortgage costs and had diminished in value. They wished to sell as soon as possible. This was their only letting Property.

The Applicants sought an order for recovery of possession to be granted today.

Decision and Reasons

The Tribunal then considered the eviction application before it.

The Tribunal considered the oral and documentary evidence from the Applicants and in so far as material made the following findings in fact:

1. The Parties let the subjects under an SAT commencing 24 August 2014;
2. An AT5 had been served on the Respondent prior to commencement of the SAT;
3. Notice to Quit and Section 33 Notice had been served on 19 January 2022;
4. Section 11 Notice had been served on the local authority;
5. The SAT had reached its term and had been terminated;
6. Tacit relocation was no longer operating;
7. No further contractual tenancy was in existence;
8. The Applicants had given the Respondent notice that they required possession;
9. The Applicants wished to sell the Property;
10. The Applicants faced increased mortgage costs and diminishing value of the Property necessitating the sale of the Property.

The Tribunal considered all of the evidence and submissions. The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant

the order sought. The Tribunal determined that it would be reasonable to grant the order sought in the circumstances.

The Tribunal granted the application for eviction and recovery of possession.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Legal Member/Chair

Date: 16th December 2022

Alan Strain